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CERTIFICATE OF MAILING (37 CFR 1.8(A))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231 on February 18, 2003.

Signed

Laura Lee Mosier

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2800
FEB 27 2003
[Handwritten signature]

In re application of:

JOHN H. HEANUE et al.

Serial No. 09/491,429

Filed: January 26, 2000

For: WIDELY TUNABLE LASER

Group Art Unit: 2828

Examiner: Rodriguez, Alejandro

Atty Docket No. A-68918/ENB

Date: February 18, 2003

COMMUNICATION

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

This Communication is in response to the Office Action mailed February 3, 2003.

The Action has been incorrectly made final at least with respect to Claim 13-15. As noted in MPEP Section 706.07(a), a second or any subsequent action on the merits shall be final, "except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." Claims 13-15 were not amended in response to the previous Action, nor are they now rejected under an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In view of the foregoing, Applicants respectfully request that the finality of the

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February 3 Action be withdrawn and that the time period for responding to the February 3 Action be reset.

Respectfully submitted,

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By



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